

### Remarks

Claims 1-20 are pending in this application. Claims 1-6 and 9-13 have been rejected as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,764,903 to Yu. Claims 7 and 8 have been objected to as being allowable but for their dependence on a rejected base claim. Claims 14-20 have been allowed.

#### **A. Independent Claims 1 and 9**

Each of independent claims 1 (method) and independent claim 9 (apparatus) have been rejected in the most recent office action as being anticipated by Yu. Each of claims 1 and 9 has been amended herein to clarify the recitation in the claims of a local or standby power source that is operable to provide standby power to the network controller in the event of a loss of power to the network controller. The use of a local or standby power source is set out in a method step of claim 1 concerning the provision of providing a network controller associated with each server of the network:

providing a network controller associated with each server, each network controller including a local power source and a local memory, wherein the local power source comprises a standby power source operable to provide power to local memory and a processor of the network controller in the event of a power failure in the network controller;

(Claim 1). In independent claim 9, each network controller is coupled to a standby power source:

wherein the network controllers are coupled to a standby power source operable to provide standby power to the network controller such that the set of data is accessible despite the loss of operational power in the associated server.

(Claim 9). A server cluster network that includes a local or standby power source is set out in the Detailed Description of the Application, which includes a description of local power source 17:

Power source 17 is described as a local power source because the local power source is local to and serves as a backup power source to the processor and memory elements of intelligent network interface controller 18.

...

The local power source 17 of intelligent network interface controller 18 would allow the controller to remain operational despite a hardware failure, such as a loss of power, in its associated server 16.

(Patent Application, page 7, lines 11-13 and 17-19). Because of the standby power source, the data that is common to and saved within each of the network interface controllers can be accessed despite an operational failure, such as a loss of operating power, in the associated server. The standby power source exists as a backup power source for the memory and processor of the network interface controller. Thus, even if primary power were lost to the server, the operational data stored in the network interface controller would not be lost and could be accessed by another server of the network.

**B. Yu Does Not Disclose or Suggest a Local Power Source**

A plain reading of Yu demonstrates that Yu does not in any manner disclose or suggest a local power source or standby power source for the network interface controllers of Yu. The examiner has previously cited the following passages of Yu — column 3, lines 41-46 and 62-64; and column 4, lines 17-25 — as disclosing a local power source. These sections are set out below in their entirety:

The primary server includes a hard drive controller 14 that allows the primary system to read from and write to a local hard disk 16 that store the files needed to run the primary server and files containing data that may be requested by client computer systems.

...

If the primary server goes down, the terminals have to be physically disconnected from the primary server and reconnected to the secondary server.

...

The primary server communicates over the network medium and data links through network interfaces 18. Thus, the network interfaces include the hardware for the primary server to communicate with the client computer systems and the secondary server.

The secondary server has hardware that is analogous to the hardware on the primary server. The secondary server has a hard drive controller 32, a remote hard disk 34 (remote to the primary server) and network interfaces 36.

(Yu, column 3, lines 41-46 and 62-64; column 4, lines 17-25). Nowhere in these passages, or in any other location in Yu, is there any disclosure or suggestion of a standby power source for each of the network interface controllers of the network.

Because Yu does not disclose a local or standby power source, a rejection of claims 1 and 9 on the basis of Yu on anticipation grounds is improper. "A claim is not anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir 1987). "The identical invention must be shown in complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1336 (Fed. Cir 1989). With respect to claims 1 and 9 of the present application, each and every element of claims 1 and 9 is not found in Yu. A local or standby power source, as claimed in each of claims 1 and 9, is simply not found in Yu. Because the invention of claims 1 and 9 is not disclosed in Yu, the rejection of claims 1 and 9 should be withdrawn, and claims 1 and 9 should be passed to issuance.

**C. Claims 2-6 and 10-13**

Claims 2-6 and 10-13 will not be discussed individually herein as each of these claims depends, either directly or indirectly, from an allowable base claim. Claims 2-6 each depend, either directly or indirectly from claim 1, and claims 10-13 depend, either directly or indirectly, from claim 9.

**D. Claims 7 and 8**

Applicants acknowledge the examiner's indication that claims 7 and 8 are allowable but for their dependence on a rejected base claim. Before the above amendments, claim 8 depended from claim 7. Claim 7 has been amended herein to become an independent claim and to include all of the limitations of claim 1. Claim 8 depends from claim 7. Because of the amendment to claim 7, claim 8 is not amended herein.

**E. Claims 14-20**

Applicants acknowledge the examiner's indication that claims 14-20 are allowed. Claim 14 has been amended herein to correct a grammatical error.

**Conclusion**

Applicants respectfully submit that the rejection of claims 1-6 and 9-13 should be withdrawn, and these claims should be passed to issuance. Applicants respectfully submit that the objection to claims 7 and 8 should be withdrawn, and these claims should be passed to issuance, with allowed claims 14-20.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Fulghum', written over a horizontal line.

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